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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,500	09/19/2003	Robert Michael Trotter	TROT1	8974
6980	7590	09/08/2004	EXAMINER	
TROUTMAN SANDERS LLP BANK OF AMERICA PLAZA, SUITE 5200 600 PEACHTREE STREET, NE ATLANTA, GA 30308-2216			GLESSNER, BRIAN E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/666,500

Applicant(s)

TROTTER, ROBERT MICHAEL

Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

The following office action is in response to the remarks filed on August 12, 2004. Claims 1-17 are pending in the application. Claims 1-17 are rejected as set forth below. In light of the applicant's remarks, the previous grounds of rejection have been withdrawn.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gravity drain comprising a plurality of drain segments must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said remote first end" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "said opposing second end" in 3. There is insufficient antecedent basis for this limitation in the claim.

In regard to claims 11 and 12, the scope of the claims is unclear because the applicant states that the system comprises a drainage conduit and a drain, wherein the drain is comprised of a gravity drain having a plurality of drain segments, wherein the drain segments are recessed into the floor and extend around the periphery of the enclosure. All the applicant's drawings show is the drainage conduit extending around the periphery of the enclosure. Therefore, the examiner is not certain if the drainage conduit and the plurality of drain segments are the same element or different elements. The examiner will examine the claims as "best understood" until further clarification is provided.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10, 11, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck (3,975,467).

In regard to claim 1, Beck discloses a drying system for a structural waterproofing system of an enclosure, the enclosure having a floor 2 and at least one wall 3 defining an interior and exterior of the enclosure, the drying system comprising: a drainage conduit 6, 10 for draining water from the enclosure, said drainage conduit having a periphery defining an interior; an air inlet, i.e. the opening connecting the conduit to the duct 30, in communication with the interior of said drainage conduit, an air outlet, i.e. the opening connecting the conduit to the duct 31, in communication with the interior of said drainage conduit, and an air circulator 38 for circulating air between said air inlet and said air outlet throughout said interior of said conduit; wherein the circulated air removes moisture and gas from said interior of said conduit through said air outlet.

In regard to claim 2, Beck discloses the claimed invention, wherein said air inlet is in communication with the interior of said enclosure. The inlet is in communication with the interior of the enclosure at least through hose 27.

In regard to claim 3, Beck discloses the claimed invention, wherein said drainage conduit has a remote end, i.e. the end near duct 30, and an opposing end, i.e. the end

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near duct 31, said air inlet located in the proximity of said remote first end of said drainage conduit and said air outlet located in the proximity of said opposing second end of said drainage conduit.

In regard to claim 4, Beck discloses the claimed invention, further comprising an air duct 30 having first and second ends, wherein said first end communicates with said air outlet of said drainage conduit and said second end communicates with the exterior of said enclosure. The examiner would like to point out that since the duct is connected to the conduit, the duct is in communication with everything the conduit is in communication with.

In regard to claim 5, Beck discloses the claimed invention, wherein said air circulator 38 is located proximal to said second end of said air duct. Beck does not specifically disclose that said air circulator draws air from said interior of said enclosure through said drainage conduit. However, this is a functional statement. Therefore, as long as Beck's circulator is capable of performing the claimed function, it meets the claimed limitations. Therefore, since one having ordinary skill in the art knows that blowers often blow in two directions, it is known that Beck's blower is capable of performing the claimed function. Therefore, Beck's blower meets the claimed function.

In regard to claim 8, Beck discloses the claimed invention, wherein the system further comprises a humidistat 40 for sensing the amount of moisture in said drainage conduit or said enclosure, said humidistat activating the operation of said air circulator.

In regard to claim 10, Beck discloses a drying system for structural waterproofing system having a drain 29 for an enclosure, the enclosure having a floor 2 and at least

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one wall 3 defining an interior and exterior of the enclosure, the drying system comprising a drainage conduit 6, 10 for draining water from the enclosure, said drainage conduit having a periphery defining an interior; an air inlet, i.e. the opening connecting the conduit to the duct 30, in communication with said interior of said drainage conduit, an air outlet, i.e. the opening connecting the conduit to the duct 31, in communication with said interior of said drainage conduit and said drain; and an air circulator 38 for circulating air between said air inlet and said air outlet throughout said interior of said conduit; wherein the circulated air removes moisture and gas from said interior of said conduit through said air outlet to said drain.

In regard to claim 11, as "best understood", Beck discloses the claimed invention, wherein said drain comprises a plurality of drain segments, i.e. the segments of the conduit 6, 10 along adjacent walls, and a gravity drain having first and second ends, said first end in communication with said plurality of drain segments and said second end in communication with said exterior of said enclosure. Once again, the drain and conduits are all in communication. Therefore, all of the elements are in communication with the interior and exterior of the enclosure.

In regard to claims 13 and 15, Beck discloses a method for drying structural waterproofing of an enclosure. The method steps of claim 13 can be seen in the above rejection of claim 1. Therefore, claim 13 is rejected on the same grounds of rejection set forth above with respect to claim 1. Further, Beck discloses the step of blowing air from outside said enclosure into said air inlet for circulating air through said drainage conduit to said air outlet into a drain 29.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (3,975,467) in view of Dextras (2002/0073628).

In regard to claims 6 and 17, Beck discloses the claimed invention except for specifically disclosing that said air circulator is a fan. Dextras teaches that it is known to use a fan to circulate air through a building ventilation system. It would have been obvious to one having ordinary skill in the art to use a fan to circulate the air through Beck's invention, because a fan will provide sufficient airflow through the duct and conduit system. Further, most fans can be used to blow air in two directions. Therefore, one could use the fan to suck the air out of the system, or to blow the air through the system.

In regard to claim 14, Beck discloses the claimed method except for specifically disclosing that said air circulator draws air from the interior of said enclosure through said air inlet. Dextras teaches that it is known to draw air from the interior of an enclosure to circulate through air ducts and conduits. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the interior air to circulate through the ducts and conduits, because the interior air has already been treated. Therefore, it will not add moisture to the drainage system.



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Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (3,975,467) in view of Larimore (6,279,279).

In regard to claims 7 and 16, Beck discloses the claimed invention except for specifically disclosing the use of a dehumidifier for dehumidifying the air circulated by said air circulator. Larimore teaches that it is known to use a dehumidifier to dehumidify circulated air in a building structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a dehumidifier in Beck's invention, because, as is known in the art, the dehumidifier will remove moisture from the air in Beck's enclosure. Therefore, one will not have to worry about mildew and mold growing in the enclosure.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (3,975,467).

In regard to claim 9, Beck discloses the claimed invention, except for specifically disclosing the use of a timer for programming the operation of said air circulator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a timer into Beck's invention, because the use of timers to control blowing devices is notoriously well known in the art. The timer eliminates the need for a person to control when and how long the blower will run. Further, the humidistat functions in a similar manner as a timer because it will control when the blower unit will turn on and off.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (3,975,467) and further in view of Mendola (4,185,429).

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In regard to claim 12, Beck discloses the claimed invention except for specifically disclosing that said plurality of said drain segments are recessed into said floor of said enclosure and extend around the periphery of said enclosure. Mendola teaches that it is known to provide a plurality of drain segments that are recessed into a floor of an enclosure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to recess the drain segments, because by recessing the drain segments into the floor, they will be less obtrusive. Therefore, the room will have a more pleasing esthetic appearance.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Romer, Townsend et al., Shelton, Parker and Ruiz et al.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday through Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian E. Glessner  
Primary Examiner  
Art Unit 3635

B.G.  
September 2, 2004